substances. She explained that if the Respondent's DEA registration were revoked or suspended, the clinic would not be able to function in emergency situations because the Respondent would be unable to prescribe the appropriate controlled medications needed by the patients. However, since the Respondent's exclusion from Medicare or Medicaid, North Forks has the services of another psychiatrist who works three hours a week and sees the Medicare patients.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending application for such registration, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or a pending application for registration denied. See Henry J. Schwarz, Jr., M.D. Docket No. 88–42, 54 FR 16,422 (1989). In addition, 21 U.S.C. 824(a)(5) specifies that a DEA registration may be revoked or suspended if the registrant ''has been excluded * * * from participation in a program pursuant to (42 U.S.C. 1320a–7(a)).'' Here, the record demonstrates that the Respondent has been so excluded. Although the Respondent attempted to contest elements of this exclusion in these proceedings, the Deputy Administrator agrees with Judge Bittner's findings that:

> The letter advising Respondent of his exclusion from Medicare and state health programs specified that his exclusion was mandated by 1320a–7(a), and Respondent did not appeal that ruling. He is therefore precluded from attacking that finding collaterally in this proceeding. In light of the above, I conclude that Respondent was excluded from programs pursuant to 1320a–7(a) and that the exclusion constitutes grounds to revoke Respondent's DEA registration pursuant to 42 U.S.C. 824(a)(5).

Next, as to the public interest issue, factors one and five are relevant in determining whether the Respondent's continued registration would be inconsistent with the public interest. Specifically, as to factor one, ''(t)he recommendation of the appropriate state licensing board,'' the Medical Board, after conducting a hearing and reviewing the evidence submitted, found that the Respondent had knowingly submitted false invoices for payment by the State. Accordingly, the Medical Board sanctioned the Respondent by suspending his medical license and ordering him to perform community service.

Further, as to factor five, ''(s)uch other conduct which may threaten the public health or safety,'' the Respondent's conduct of submitting false invoices placed into question his trustworthiness and credibility. Also, Judge Bittner found that the Respondent's testimony before her lacked credibility: ''I note at the outset that I did not find Respondent to be a credible witness. He seemed more interested in tailoring his testimony to his defenses than in accurately portraying relevant events.'' Such lack of credibility in 1994 causes concern as to the Respondent's future conduct if entrusted with protecting the public interest in administering controlled substances. The Respondent argued that since his conviction did not involve controlled substances, the Government had not shown that his continued registration would be inconsistent with the public interest. However, the Deputy Administrator agrees with Judge Bittner who wrote ''(i)t is well established that misconduct involving controlled substances is not a *sine qua non* for revocation of a DEA registration * * *.'' See also Gilbert L. Franklin, D.D.S., 57 FR 3441 (1992).

Yet the Respondent has submitted evidence concerning his rehabilitation. Specifically, Dr. Malcolmsen testified extensively about the Respondent's excellent, honest and caring work, often voluntarily provided to the patients at North Fork, and about the Respondent's statements of remorse for his actions. Dr. Malcolmsen also testified that she believed the Respondent had taken responsibility for his past misconduct, and that she had never observed the Respondent abuse his authority to handle controlled substances. She further explained that if the Respondent's DEA registration was revoked, the clinic would suffer a loss of services because the Respondent would be unable to prescribe controlled substances needed by many of North Fork's patients.

The Respondent also testified about his remorse for his misconduct and his need for his DEA Certificate of Registration. However, Judge Bittner, directly observing the Respondent's testimony, noted that ''(a)lthough counsel for Respondent asserts that Respondent has expressed remorse for his conduct, * * * Respondent's only testimony to that effect in this proceeding was his comment that 'I'm extremely remorseful about it and I've said that.' However, the thrust of his testimony in this proceeding appeared to be that having to go through 'another trial' was unfair and tiring. In these circumstances, I conclude that his purported expressions of remorse are less than reliable.''

Given Judge Bittner's doubts as to the Respondent's credibility and sincerity, and the egregious nature of his conduct in intentionally filing false documents with the State, the Deputy Administrator finds that the public interest is best served by revoking the Respondent's DEA Certificate of Registration and denying and pending registration application at the present time. See *Sokoloff* v. *Saxbe*, 501 F.2d 571, 576 (2 Cir. 1974) (stating that ''permanent revocation'' of a DEA Certificate of Registration may be ''unduly harsh''). Like Judge Bittner, after reviewing the record in total, the Deputy Administrator questions whether the Respondent is currently willing or able to meet the responsibilities inherent in a DEA registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AK6455237, issued to Richard M. Koenig, M.D., be, and it hereby is, revoked, and any pending application submitted by the Respondent is denied. This order is effective January 18, 1996.

Dated: December 11, 1995.

Stephen H. Green,

Deputy Administrator.

[FR Doc. 95–30654 Filed 12–15–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—00303; Lucas, Iowa, NAFTA—00303A; Mt. Ayr, Iowa, NAFTA—00303B; Osceola, Iowa, and NAFTA—00303C]

Iowa Assemblies, Inc., Murray, Iowa; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Notice of Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on January 12, 1995, applicable to all workers at Iowa Assemblies, Inc. in Lucas, Mt. Ayr and Osceola, Iowa.

At the request of the State Agency on behalf of the company, the Department reviewed the subject certification. The company reports worker separations will occur at the subject firm's manufacturing facilities in Mt. Ayr, Osceola, and Murray, Iowa. The workers produce among other products, automotive wiring harnesses and wiring assembly. The Department's review of the certification for workers of the subject firm found that workers in Mt. Ayr and Osceola, Iowa are currently covered under the certification. When the certification was issued, the Mt. Ayr and Osceola locations of the subject firm were not separately assigned a suffix number. The intent of the Department's certification is to include all workers of Iowa Assemblies, Inc. adversely affected by increased imports of wiring harnesses and assembly from Mexico or Canada. Therefore, the Department is amending the certification for workers of the subject firm to separately identify the Mt. Ayr and Osceola, Iowa locations, and provide for the worker separations in Murray, Iowa.

The amended notice applicable to NAFTA–00303 is hereby issued as follows:

''All workers of Iowa Assemblies, Inc., Lucas (NAFTA–303), Mt. Ayr (NAFTA–303A), Osceola (NAFTA–303B), and Murray (NAFTA–0303C) Iowa engaged in employment related to the production of wiring harnesses and assembly who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington, DC., this 5th day of December 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–30652 Filed 12–15–95; 8:45 am]

BILLING CODE 4510–30–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 95–8]

Copyright, Cable Compulsory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of policy decision.

SUMMARY: The Copyright Office of the Library of Congress is announcing a policy decision with respect to the examination and reporting of local broadcast signals in light of the amendment to section 111 of the Copyright Act made by the Satellite Home Viewer Act of 1994. For examining cable statements of account, the Office will use the same ADI list used by the Federal Communications Commission for its must-carry/retransmission consent election, and will treat a broadcast signal as local for copyright purposes only within that station's ADI.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or William Roberts, Senior Attorney for Compulsory Licenses. Telephone (202) 707–8380. Telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

On October 18, 1994, the President of the United States signed into law the Satellite Home Viewer Act of 1994. Public Law No. 103–369. In addition to extending and amending the compulsory license for satellite carriers in 17 U.S.C. 119, the Home Viewer Act expanded the cable compulsory license definition of the ''local service area of a primary transmitter'' in 17 U.S.C. 111 to include a broadcast station's ''television market as defined in section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any modifications to such television market made, on or after September 18, 1993, pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations'' (parenthetical in original). The amendment was made effective beginning with the second accounting period of 1994.

The definition of the ''local service area of a primary transmitter'' in 17 U.S.C. 111(f) determines whether a broadcast station is local or distant to a cable system and consequently when it must submit a royalty fee for retransmission of that signal. Cable systems pay royalties for carriage of distant signals and may retransmit local broadcast signals to their subscribers without incurring copyright liability.[1] Prior to the passage of the Home Viewer Act, the local service area definition provided that a broadcast station was local in the area that it could ''insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations and authorizations of the Federal Communications Commission in effect on April 15, 1976* * *'' 17 U.S.C. 111(f) (1976). This was a reference to the Commission's must-carry rules in effect in 1976, and the Copyright Act fixed these rules for all future copyright determinations. Although these must-carry rules were ultimately declared unconstitutional, *see Quincy Cable T.V., Inc.* v. *FCC,* 768 F.2d 1434 (D.C. Cir. 1985), *cert. denied,* 476 U.S. 1169 (1986) and *Century Communications* v. *FCC,* 835 F.2d 292 (D.C. Cir. 1987), *cert. denied,* 486 U.S. 1032 (1988), they remain in effect for purposes of 17 U.S.C. 111. *See Quincy,* 768 F.2d at 1454 n. 42. However, because of the passage of time and changes in telecommunications law and policy, the 1976 must-carry rules no longer reflect the realities of the current marketplace. Congress, therefore, amended the local service area definition in the Home Viewer Act to provide an additional means of determining the local/distant copyright status of broadcast stations.

The Home Viewer Act amendment provides that, in addition to the area encompassed by the 1976 must-carry rules, a broadcast station is local for copyright purposes in the area that comprises that station's television market as defined in § 76.55(e) of the FCC's rules, and any subsequent modifications made by the FCC to that market. In many circumstances, a station's television market under § 76.55(e) creates a larger local service area than under the 1976 must-carry rules. Cable systems may use either the television market or the 1976 must-carry

[1] There is one exception to this rule: a cable system which retransmits only local broadcast signals must nonetheless submit a minimum royalty fee under 17 U.S.C. 111. However, if the system carries one or more distant signals, royalties are only paid for those distant signals, and the local signals carried are copyright-free. As a practical matter, there are very few cable systems which only carry local broadcast signals and no distant signals.